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Congress of the United States
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COMMITTEE ON WAYS AND MEANS
WASHINGTON, DC 20515

SUBCOMMITTEE ON OVERSIGHT

December 18, 2012

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C., 20201

Dear Secretary Sebelius,

As Chairman of the Subcommittee on Oversight, it is my responsibility to ensure that the Department of Health and Human Services (HHS) is in compliance with federal archiving and recordkeeping laws. Under the Federal Records Act, federal agencies must preserve all records and communications connected with the public business. Though these rules were written in the time of typewriters, they continue to apply in a time of electronic mail and instant messaging, improvements in technology that have offered government employees faster and more efficient methods of communication.

Federal archiving and recordkeeping rules are an important part of our government's commitment to transparency, as well as the checks and balances of congressional oversight that is crucial to our system of government. These rules require that all records, regardless of physical form or characteristic, made or received by a federal agency in connection with the transaction of public business, be preserved and archived. These requirements apply to modern forms of communication such as electronic mail, instant messaging, and mobile-to-mobile text messages.

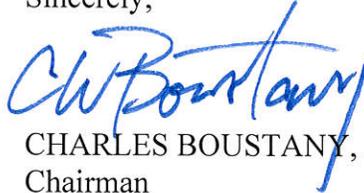
Recently, whistleblowers have alleged that political appointees within HHS have been using instant messaging software to communicate with career employees, ostensibly in an effort to circumvent federal law. To assist me in ensuring that your Department is in compliance with federal law, please provide the following information by no later than January 4, 2013:

1. HHS' policy regarding the archiving of electronic message records;
2. Copies of any internal guidance or directives concerning the use and/or archiving of electronic messaging; and

3. All communication, including but not limited to electronic mail, concerning the use of instant messaging by political appointees.

Thank you in advance for your assistance in this matter. If your staff should have any questions, please contact Committee staff at (202) 225-5522.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Boustany, Jr.", written in a cursive style.

CHARLES BOUSTANY, JR., MD
Chairman